

REMARKS

The Office Action dated May 16, 2007, has been received and carefully considered. In this response, claims 11 and 14-17 have been amended, claims 34-38 have been added, and claims 1-10 and 22-33 have been cancelled without prejudice. No new matter has been added. Entry of the amendments to claims 11 and 14-17, the addition of claims 34-38, and the cancellation of claims 1-10 and 22-33 without prejudice is respectfully requested. Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following remarks.

I. THE INDEFINITENESS REJECTION OF CLAIMS 11-21

On page 2 of the Office Action, claims 11-21 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention. This rejection is hereby respectfully traversed.

The Examiner asserts that claims 11 and 14 are directed to separate vehicle states and include inappropriate items. Applicant respectfully disagrees. However, in order to forward the present application toward allowance, Applicant has amended claims 11 and 14 to address the concerns of the Examiner.

In view of the foregoing, it is respectfully requested that the aforementioned indefiniteness rejection of claims 11-21 be withdrawn.

II. THE OBVIOUSNESS REJECTION OF CLAIMS 11-18

On pages 3-4 of the Office Action, claims 11-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nissan Serena in view of Anderson et al. (U.S. Patent No. 4,847,972). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 103, the Patent Office bears the burden of establishing a prima facie case of obviousness. In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Patent Office can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of references. Id. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). That is, under 35 U.S.C. § 103, teachings of references can be combined only if there is some suggestion or motivation to do so. Id. However, the motivation cannot come from the applicant's invention itself. In re

Oetiker, 977 F.2d 1443, 1447, 24 USPQ2d 1443, 1446 (Fed. Cir. 1992). Rather, there must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the art would make the combination. Id..

Regarding claim 11, the Examiner asserts that the Nissan Serena comprises an independent rear suspension and mountings therefor and Anderson et al. discloses lowering a floorpan of a vehicle to facilitate ingress and egress of a handicapped person, and thus it would have been obvious to modify the Nissan Serena in view of the disclosure of Anderson et al. to arrive at the claimed invention. Applicant again respectfully disagrees. However, in order to forward the present application toward allowance, Applicant has amended claims 11 to more specifically define the claimed invention, and specifically those features that differentiate the claimed invention from the Nissan Serena and the disclosure of Anderson et al., as well as the other cited references.

In particular, Applicant respectfully submits that the Nissan Serena and Anderson et al., and the other cited references, taken either alone or in combination, fail to disclose, or even suggest, a vehicle converted for enabling or improving accessibility to the vehicle, wherein the vehicle is converted by fitment of a conversion assembly comprising substitute rear suspension mountings fixed to a chassis

structure of the vehicle in place of original rear suspension mountings that are removed from the chassis structure to facilitate lowering of a portion of a floorpan of the vehicle directly between rear wheels of the vehicle, and wherein the portion of the floorpan is lowered directly between the substitute rear suspension mountings, as presently claimed. In contrast, the Nissan Serena merely comprises a rear multi-link suspension (see Appendix A), but does not comprise anything resembling a portion of a floorpan disposed directly between rear wheels of the vehicle, such as presently claimed. Indeed, the Nissan Serena has other structure located between its rear wheels which would prevent the disposing of a floorpan directly between its rear wheels. In addition, the Examiner has not provided any evidence as to when the Nissan Serena even adopted such a suspension system, which must have been prior to at least the April 11, 2003 priority date of the present application.

Also, Anderson et al. merely discloses a van provided with a replacement chassis for providing wheelchair access to a side of the van. Anderson et al. also does not disclose anything resembling a portion of a floorpan disposed directly between rear wheels of the vehicle, such as presently claimed. In addition, there would have been no motivation or suggestion to combine the Nissan Serena with Anderson et al. to arrive at the claimed invention since neither the Nissan Serena nor Anderson

et al. comprise or disclose replacing a rear axle with substitute rear suspension mountings fixed to a chassis structure of a vehicle to facilitate lowering of a portion of a floorpan of the vehicle directly between rear wheels of the vehicle and the substitute rear suspension mountings, as presently claimed. Indeed, even if such motivation or suggestion to combine was present, such a combination would merely result in the Nissan Serena having rear multi-link suspension and a replacement chassis as taught by Anderson et al. for providing wheelchair access to a side of the Nissan Serena. Accordingly, it is respectfully submitted that claim 11 is allowable over the Nissan Serena in view of Anderson et al.

At this point it should be noted that, as stated in MPEP § 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the

combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Regarding claims 12-18, these claims are dependent upon independent claim 11. Thus, since independent claim 11 should be allowable as discussed above, claims 12-18 should also be allowable at least by virtue of their dependency on independent claim 11. Moreover, these claims recite additional features which are not disclosed, or even suggested, by the cited references taken either alone or in combination.

At this point it should be noted that claims 34-38 have been added to cover additional features that were previously claimed in now cancelled claims. Thus, no new matter has been added. Claims 34-38 are dependent upon independent claim 11. Thus, since independent claim 11 should be allowable as discussed above, claims 34-38 should also be allowable at least by virtue of their dependency on independent claim 11. Moreover, these claims recite additional features which are not disclosed, or even suggested, by the cited references taken either alone or in combination.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 11-18 be withdrawn.

III. THE OBVIOUSNESS REJECTION OF CLAIMS 18-21

On page 4 of the Office Action, claims 18-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nissan Serena in view of Anderson et al. (U.S. Patent No. 4,847,972) and further in view of Hall et al. (U.S. Patent No. 4,688,843). This rejection is hereby respectfully traversed.

It is respectfully submitted that the aforementioned obviousness rejection of claims 18-21 has become moot in view of the deficiencies of the primary references (i.e., Nissan Serena and Anderson et al.) as discussed above with respect to independent claim 11. That is, claims 18-21 are dependent upon independent claim 11 and thus inherently incorporate all of the limitations of independent claim 11. Also, the secondary reference (i.e., Hall et al.) fails to disclose, or even suggest, the deficiencies of the primary references as discussed above with respect to independent claim 11. Indeed, the Examiner does not even assert such. Thus, the combination of the secondary reference with the primary references also fails to disclose, or even suggest, the deficiencies of the primary references as discussed above with respect to independent claim 11. Accordingly, claims 18-21 should be allowable over the combination of the secondary reference with the primary references at least by virtue of their dependency on independent claim 11. Moreover, claims 18-21 recite additional features

which are not disclosed, or even suggested, by the cited references taken either alone or in combination.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 18-21 be withdrawn.

IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

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